

### **IC 31-34-13**

#### **Chapter 13. Child Videotape Testimony in Child in Need of Services Proceedings**

### **IC 31-34-13-1**

#### **Application of chapter**

Sec. 1. This chapter applies to an action initiated to determine if a child is a child in need of services under:

- (1) IC 31-34-1-1 through IC 31-34-1-6;
- (2) IC 31-34-1-10; or
- (3) IC 31-34-1-11.

*As added by P.L.1-1997, SEC.17.*

### **IC 31-34-13-2**

#### **Admissibility of statements or videotapes**

Sec. 2. A statement or videotape that:

(1) is made by a child who at the time of the statement or videotape:

- (A) is less than fourteen (14) years of age; or
- (B) is at least fourteen (14) years of age but less than eighteen (18) years of age and has a disability attributable to an impairment of general intellectual functioning or adaptive behavior that:

- (i) is likely to continue indefinitely;
- (ii) constitutes a substantial disability to the child's ability to function normally in society; and
- (iii) reflects the child's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated;

(2) concerns an act that is a material element in determining whether a child is a child in need of services;

(3) is not otherwise admissible in evidence under statute or court rule;

is admissible in evidence in an action described in section 1 of this chapter if the requirements of section 3 of this chapter are met.

*As added by P.L.1-1997, SEC.17.*

### **IC 31-34-13-3**

#### **Requirements for admissibility of statements or videotapes**

Sec. 3. A statement or videotape described in section 2 of this chapter is admissible in evidence in an action to determine whether a child or a whole or half blood sibling of the child is a child in need of services if, after notice to the parties of a hearing and of their right to be present:

- (1) the court finds that the time, content, and circumstances of the statement or videotape and any other evidence provide sufficient indications of reliability; and
- (2) the child:

- (A) testifies at the proceeding to determine whether the child

or a whole or half blood sibling of the child is a child in need of services;

(B) was available for face-to-face cross-examination when the statement or videotape was made; or

(C) is found by the court to be unavailable as a witness because:

(i) a psychiatrist, physician, or psychologist has certified that the child's participation in the proceeding creates a substantial likelihood of emotional or mental harm to the child;

(ii) a physician has certified that the child cannot participate in the proceeding for medical reasons; or

(iii) the court has determined that the child is incapable of understanding the nature and obligation of an oath.

*As added by P.L.1-1997, SEC.17.*

#### **IC 31-34-13-4**

##### **Informing parties of intention to introduce and contents of statements and videotapes**

Sec. 4. A statement or videotape may not be admitted in evidence under this chapter unless the prosecuting attorney or the attorney for the county office of family and children informs the parties of:

(1) an intention to introduce the statement or videotape in evidence; and

(2) the content of the statement or videotape;

at least twenty (20) days before the proceedings to give the parties a fair opportunity to prepare a response to the statement or videotape before the proceeding.

*As added by P.L.1-1997, SEC.17.*